

² The Board notes that following the March 25, 2019 decision, OWCP received additional evidence. However, the Board’s *Rules of Procedure* provides: “The Board’s review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal.” 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

FECA wage-loss compensation; (2) whether appellant received an overpayment of compensation in the amount of \$21,363.55 during the period July 1, 2016 to June 23, 2018, for which he was without fault, because he concurrently received FECA wage-loss compensation and Social Security (SSA) age-related retirement benefits without an appropriate offset; (3) whether OWCP properly denied waiver of recovery of the overpayments; and, (4) whether it properly required recovery of the overpayments by deducting \$500.00 from appellant's continuing compensation payments every 28 days.

FACTUAL HISTORY

On January 9, 2014 appellant, then a 62-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that he injured his right shoulder the previous day while in the performance of duty. On the reverse side of the claim form, appellant's supervisor noted appellant's retirement coverage as Federal Employees Retirement System (FERS). On February 24, 2014 OWCP initially accepted right shoulder sprain and later expanded its acceptance of the claim to include impingement syndrome and bursitis of right shoulder.

Appellant stopped work on the date of injury and did not return. He received continuation of pay from January 9 to February 22, 2014. OWCP then paid appellant wage-loss compensation on the supplemental rolls, effective February 24, 2014 and on the periodic rolls, effective May 4, 2014.

The record includes a life insurance election form signed by appellant on July 17, 1991 in which he elected basic life insurance. On a continuation of life insurance coverage form, signed by appellant on April 20, 2015, he indicated with a check mark that he wanted to continue basic life insurance with no reduction, and Option A in retirement.

By letter dated June 9, 2015, the Office of Personnel Management (OPM) informed OWCP that appellant was eligible to continue basic life insurance, Option A, and elected no reduction postretirement. It indicated that his postretirement deductions commenced March 7, 2015. On a continuation of life insurance coverage form, signed by appellant on May 24, 2016, he indicated by a check mark that he was electing basic life insurance Option A (75 percent reduction) and that he wanted to continue it after retirement age.

On January 31, 2017 OWCP issued a preliminary determination, finding that an overpayment of compensation had been created for the period March 7, 2015 to January 7, 2017 in the amount of \$2,813.48. It explained that the overpayment occurred because OPM had informed OWCP that PRBLI deductions should have commenced effective March 7, 2015, but no deductions were made until January 8, 2017. OWCP found appellant without fault. It provided an overpayment action request form and an overpayment recovery questionnaire (Form OWCP-20). OWCP requested that appellant provide documentation including income tax returns, bank account statements, bills and cancelled checks, pay slips, and any other records which supported income and expenses listed. It afforded him 30 days to respond.

On February 23, 2017 appellant requested a prerecoupment hearing before a representative of OWCP's Branch of Hearings and Review. In an attached letter dated February 22, 2017, he maintained that OWCP had not informed him of the increase in life insurance premiums until the

January 31, 2017 preliminary overpayment letter and, had he known, he would not have elected to continue the life insurance. Appellant submitted the first page of a Form OWCP-20, correspondence from the employing establishment, an earnings and leave statement, the continuation of life insurance election forms signed by him on April 20, 2015 and May 24, 2016, an application for retirement dated September 30, 2016, and OWCP benefit statements for the period February 8, 2015 to February 4, 2017. These showed that for the period February 8, 2015 to April 2, 2016, \$30.00 deductions for life insurance were made; for the period April 3, 2016 to January 7, 2017, no deduction for life insurance was made; and beginning January 8, 2017 a deduction of \$121.90 for life insurance was made.

By letter dated February 29, 2017, OPM informed appellant that any annuity would be suspended while he was receiving FECA compensation and advised him regarding continuation of life insurance. It informed him that deductions for standard optional life insurance would continue to be made from his compensation payments and advised him to contact OWCP if deductions were not being made. Appellant elected FECA compensation on March 8, 2017. In an attached letter of even date, he requested that his life insurance policy be cancelled as of that day. On a life insurance election form signed by appellant on March 17, 2017, he wrote "please cancel ins[urance] policy."

On July 2, 2018 OWCP received a FERS/SSA dual benefits calculation form from SSA. The form provided appellant's SSA benefit rates with and without FERS offset. It indicated that: beginning in July 2016 his SSA rate with FERS was \$1,900.40 and without FERS \$1,011.30; beginning in December 2016, his rate with FERS was \$1,906.10 and without FERS \$1,014.30; and beginning December 2017, his SSA rate with FERS was \$1,944.20 and without FERS \$1,034.50.

OWCP prepared a FERS offset calculation worksheet verifying its calculations. This worksheet showed that during the period July 1 to November 30, 2016 appellant received an overpayment of compensation in the amount of \$4,484.58; during the period December 1, 2016 to November 30, 2017 he received an overpayment of compensation in the amount of \$10,731.00; and during the period December 1, 2017 to June 23, 2018 he received an overpayment of compensation in the amount of \$6,147.97, for a total overpayment of \$21,363.55.

In a letter dated July 17, 2018, OWCP notified appellant that, based on information provided by SSA regarding the amount of his SSA benefit that was attributable to federal service, his FECA wage-loss compensation had been adjusted.

On July 27, 2018 a hearing was held regarding the January 31, 2017 preliminary overpayment determination regarding the lack of deductions for PRBLI. Appellant maintained that an overpayment did not exist, and OWCP's hearing representative informed him of the documentation he needed to submit.

On August 8, 2018 OWCP issued a preliminary determination, finding that an overpayment of compensation in the amount of \$21,363.55 had been created. It explained that the overpayment occurred because a portion of appellant's SSA age-related retirement benefits that he received for the period July 1, 2016 to June 23, 2018 was based on credits earned while working in federal service, and that this portion of his SSA benefit was a prohibited dual benefit. OWCP found him

not at fault in the creation of the overpayment. It explained its calculation of the overpayment, attached its calculation worksheet, and informed appellant of the actions he could take. OWCP provided an overpayment action request form and a Form OWCP-20. It again requested that appellant provide documentation including income tax returns, bank account statements, bills and cancelled checks, pay slips, and any other records which supported income and expenses listed, and allotted 30 days for him to respond.

On September 4, 2018 appellant requested a prerecoupment hearing before a representative of OWCP's Branch of Hearings and Review. In an attached letter, he maintained that he had never been informed by SSA, OWCP, or OPM of an offset of benefits and requested waiver. Appellant submitted two pages of a completed Form OWCP-20 form, correspondence from SSA, portions of EN1032 forms in which he indicated "Yes" that he received monthly SSA benefits, checking account bank statements, his application for retirement dated September 30, 2016, life insurance information, benefit statements from June 26 to October 15, 2016, and May 27 to July 21, 2018, financial information regarding purchase of an automobile, money market account statements, an insurance payment to appellant and his wife for loss of a vehicle, and sale of stock information.

By decision dated October 5, 2018, an OWCP hearing representative set aside the January 31, 2017 decision regarding the PRBLI deduction overpayment and returned the record for OWCP to recalculate the amount of any overpayment for the period March 7, 2015 to January 7, 2017.

On an October 29, 2018 worksheet, OWCP noted that appellant turned 65 on April 6, 2016, and that he had elected no reduction of PRBLI on June 9, 2015. It found an overpayment of compensation in the amount of \$774.95 for the period April 6 to September 30, 2016. OWCP noted that appellant changed his election to 75 percent PRBLI free with basic and free optional life insurance (OLI) on October 1, 2016, and deductions were made correctly for the period October 1, 2016 to January 7, 2017 but deductions were improperly made for the period January 8 to April 29, 2017 for four payment cycles such that appellant was underpaid \$487.60. Effective April 30, 2017, appellant's compensation was adjusted such that no additional overpayment was created after that date.

On October 29, 2018 OWCP issued a preliminary determination, finding that an overpayment of compensation had been created for the period March 7, 2015 through September 30, 2016 in the amount of \$2,382.48. It again explained that the overpayment occurred because OPM informed OWCP that, effective March 7, 2015, PRBLI deductions should have commenced but that no deductions were made until January 8, 2017 onward. OWCP provided an explanation of the calculation of the overpayment, noting that the overpayment was calculated for two separate time periods, from March 7, 2015 to April 5, 2016, before appellant turned 65 on April 6, 2016 and for the period April 6 to September 30, 2016, after he turned 65. It indicated that, according to his compensation history, no PRBLI premiums were deducted during the period March 7, 2015 to April 5, 2016, for a total of \$1,607.53 when he had elected no reduction effective March 7, 2015 based on a June 9, 2015 OPM memorandum. OWCP further found that after appellant turned 65 on April 6, 2016, \$774.95 in PRBLI premiums should have been deducted for the period April 6 to September 30, 2016. It concluded that an overpayment of compensation was created in the amount of \$2,382.48. OWCP found appellant without fault and informed him of the actions he could take. It provided an overpayment action request form and a Form OWCP-20.

OWCP again requested that appellant provide documentation including income tax returns, bank account statements, bills and cancelled checks, pay slips, and any other records which supported income and expenses listed. It allotted 30 days for him to respond.

On November 24, 2018 appellant requested a prerecoupment hearing from the October 29, 2018 overpayment decision. In an attached letter, he maintained that, based on his benefit statements, \$30.00 was being deducted through 14 compensation periods during the period March 7, 2015 to April 5, 2016, and that the overpayment after he turned 65 on April 5, 2016 should only be for one month, which yielded an overpayment of \$1,316.69. Appellant requested waiver of recovery of the overpayment and submitted a Form OWCP-20 indicating that he had a \$34,000.00 checking account balance and monthly income of \$4,056.82. He did not list any expenses. Appellant again submitted OWCP benefit statements for the period February 8, 2015 to February 4, 2017. These indicated that for the period to April 2, 2016, a \$30.00 deduction for life insurance was made each compensation period, for the period April 3, 2016 to January 7, 2017, no deduction was made for life insurance, and beginning January 8, 2017 a deduction of \$121.90 was made. Appellant also submitted bank checking account statements. An undated, unidentified statement, presumably from appellant, entitled "facts for waiver" indicated that it was not his fault that the SSA overpayment occurred. He wrote that he spent the money on a new vehicle in May 2018 because of a motor vehicle accident (MVA).

During the hearing held in regard to both overpayments on January 28, 2019, appellant's representative argued that recovery of the overpayments would be against equity and good conscience and requested waiver of recovery. She asserted that, had appellant known of the SSA age-related retirement benefits offset requirement, he would not have elected SSA benefits. Appellant testified that he was not claiming financial hardship, indicating that he had the financial resources to repay the overpayment, but that the overpayment was against equity and good conscience. He maintained that he had detrimentally relied on the compensation when he purchased a more expensive vehicle after the MVA when his car was totaled. The hearing representative advised him of the documentation needed to claim financial hardship and noted that appellant was entitled to receive a refund of \$487.60. No documentation was received.

By decision dated March 25, 2019, OWCP's hearing representative finalized both preliminary overpayment determinations. As to the October 29, 2018 preliminary determination, he found that because no deductions for PRBLI were made for the periods March 7, 2015 to April 5, 2016 and April 6, 2016 to January 7, 2017, an overpayment of compensation in the amount of \$2,382.48 was created. With regard to the August 8, 2018 preliminary determination, the hearing representative found that appellant had received an overpayment of compensation in the amount of \$21,363.55 for the period July 1, 2016 to June 23, 2018 because a portion of his SSA age-related retirement benefits was based on credits earned while working in federal service, and that this portion of his SSA benefit was a prohibited dual benefit. He further found that appellant was without fault in the creation of the overpayments, but denied waiver of recovery. The hearing representative noted that appellant did not claim financial hardship and found that recovery of the overpayments would not be against equity and good conscience. He required recovery of the overpayments by deducting \$500.00 from appellant's continuing compensation every 28 days.

LEGAL PRECEDENT -- ISSUE 1

FECA provides that the United States shall pay compensation for the disability or death of an employee resulting from personal injury sustained while in the performance of his or her duty.³ When an overpayment has been made to an individual because of an error of fact or law, adjustment shall be made under regulations prescribed by the Secretary of Labor by decreasing later payments to which the individual is entitled.⁴

Under the Federal Employee's Group Life Insurance (FEGLI) program, most civilian employees of the Federal Government are eligible to participate in basic life insurance (BLI) and one or more of the options.⁵ The coverage for BLI is effective unless waived,⁶ and premiums for basic and optional life coverage are withheld from the employee's pay.⁷ Upon retirement or upon separation from the employing establishment or being placed on the periodic FECA compensation rolls, an employee may choose to continue basic and OLI coverage, in which case the schedule of deductions made will be used to withhold premiums from his or her annuity or compensation payments.⁸

A 1980 amendment of 5 U.S.C. § 8706(b)(2) provided that an employee receiving compensation under FECA could elect continuous withholdings from his or her compensation, so that his or her life insurance coverage could be continued without reduction. Regulations at 5 C.F.R. § 870.701 (December 5, 1980) provided that an eligible employee had the option of choosing no life insurance; Option A -- basic coverage (at no additional cost) subject to continuous withholdings from compensation payments that would be reduced by two percent a month after age 65 with a maximum reduction of 75 percent; Option B -- basic coverage (at an additional premium) subject to continuous withholdings from compensation payments that would be reduced by one percent a month after age 65 with a maximum reduction of 50 percent; or Option C -- basic coverage subject to continuous withholdings from compensation payments with no reductions after age 65 (at a greater premium).⁹

Each employee must elect or waive Option A, Option B, and Option C coverage, in a manner designated by OPM, within 60 days after becoming eligible, unless, during earlier employment, he or she filed an election or waiver that remained in effect.¹⁰ An employee who does not file a life insurance election form with his or her employing office, in a manner designated

³ 5 U.S.C. § 8102(a).

⁴ *Id.* at § 8129(a).

⁵ *Id.* at § 8702(a).

⁶ *Id.* at § 8702(b).

⁷ *Id.* at § 8707.

⁸ *Id.* at § 8706.

⁹ *See D.H.*, Docket No. 19-0384 (issued August 12, 2019).

¹⁰ 20 C.F.R. § 870.504(a)(1).

by OPM, specifically electing any type of optional insurance, is considered to have waived it and does not have that type of optional insurance.¹¹

When an under withholding of life insurance premiums occurs, the entire amount is deemed an overpayment of compensation because OWCP must pay the full premium to OPM upon discovery of the error.¹²

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly determined that appellant received an overpayment of compensation for the period March 7, 2015 to January 7, 2017 with regard to OWCP's failure to deduct PRBLI premiums from appellant's wage-loss compensation.

OWCP placed appellant on the periodic compensation rolls, effective May 4, 2014. The record includes a PRBLI election form signed by appellant on April 20, 2015 in which he chose with a check mark "Yes" that he wanted to continue basic life with no reduction, and Option A in retirement. It also included undated correspondence from OPM reflecting this selection. On a second form signed by appellant on May 24, 2016, he also indicated by a check mark "Yes" that he was electing basic life insurance Option A and wanted to continue it after retirement age. Thus, OWCP has established fact of overpayment.

However, the Board finds that this case is not in posture for decision with regard to the amount of the overpayment concerning OWCP's failure to deduct PRBLI premiums. In finding the \$2,382.48 overpayment, OWCP reviewed the fiscal record and determined that the election form signed by appellant on April 20, 2015 indicated his PRBLI selection. Appellant's compensation payment history does not indicate that specific premiums for PRBLI were deducted for the period March 7, 2015 to January 7, 2017. However, benefit statements of record show that for a number of periods, \$30.00 was deducted for "life insurance." Although the hearing representative noted in the March 25, 2019 decision that this deduction was for other life insurance and not PRBLI, there is no documentation of record to substantiate this. The Board therefore finds that the record does not include sufficient documentation to support the specific amounts of the PRBLI premiums that were not deducted.

The case will therefore be remanded to OWCP with regard to the overpayment concerning OWCP's failure to deduct PRBLI premiums. On remand OWCP shall provide supporting evidence identifying the source of each PRBLI premium used in its calculations, and explain the \$30.00 life insurance deductions made from the employee's wage-loss compensation. After this and such other further development as OWCP deems necessary, it shall issue a *de novo* decision regarding this specific overpayment.

¹¹ *Id.* at § 870.504(b).

¹² 5 U.S.C. § 8707(d); *see also D.R., widow of G.R.*, Docket No. 19-1675 (issued October 8, 2020); *D.H.*, *supra* note 9.

LEGAL PRECEDENT -- ISSUE 2

Section 8102(a) of FECA provides that the United States shall pay compensation for the disability or death of an employee resulting from personal injury sustained while in the performance of his or her duty.¹³ Section 8116 limits the right of an employee to receive compensation. While an employee is receiving compensation, he or she may not receive salary, pay, or remuneration of any type from the United States.¹⁴ When an overpayment of compensation has been made to an individual because of an error of fact or law, adjustment shall be made under regulations prescribed by the Secretary of Labor by decreasing later payments to which the individual is entitled.¹⁵

Section 10.421(d) of OWCP's implementing regulations requires OWCP to reduce the amount of compensation by the amount of any SSA age-related retirement benefits that are attributable to the employee's federal service.¹⁶ FECA Bulletin No. 97-09 states that FECA benefits have to be adjusted for the FERS portion of SSA benefits because the portion of the SSA benefit earned as a federal employee is part of the FERS retirement package, and the receipt of FECA benefits and federal retirement concurrently is a prohibited dual benefit.¹⁷

ANALYSIS -- ISSUE 2

The Board finds that appellant received an overpayment of compensation in the amount of \$21,363.55, for which he was not at fault, as he received FECA wage-loss compensation benefits and SSA age-related retirement benefits for the period July 1, 2016 to June 23, 2018 without an appropriate offset.

The record indicates that while appellant was receiving compensation for total disability under FECA, he also received SSA age-related retirement benefits. A claimant cannot receive concurrent FECA wage-loss compensation and SSA retirement benefits attributable to federal service for the same period.¹⁸ OWCP therefore properly determined that an overpayment of compensation occurred in this case.

To determine the amount of the overpayment, the portion of the SSA age-related retirement benefits received for the period July 1, 2016 to June 23, 2018 that were attributable to federal service must be calculated. OWCP received evidence from SSA with respect to the specific amount of age-based SSA retirement benefits that were attributable to appellant's federal service. SSA provided the SSA rate with FERS and without FERS for specific periods commencing in

¹³ 5 U.S.C. § 8102(a).

¹⁴ *Id.* at § 8116.

¹⁵ *Id.* at § 8129(a).

¹⁶ 20 C.F.R. § 10.421(d); *see J.S.*, Docket No. 19-0824 (issued October 4, 2019); *S.M.*, Docket No. 17-1802 (issued August 20, 2018).

¹⁷ FECA Bulletin No. 97-09 (issued February 3, 1997); *see also N.B.*, Docket No. 18-0795 (issued January 4, 2019).

¹⁸ *Supra* notes 13 and 14.

July 2016 through June 2018. OWCP provided its calculations for each relevant period based on the SSA worksheets.

The Board has reviewed OWCP's calculation of benefits received by appellant for the period July 1, 2016 to June 23, 2018 and finds that an overpayment of compensation in the amount of \$21,363.55 was created.¹⁹

LEGAL PRECEDENT -- ISSUE 3

Section 8129 of FECA provides that an overpayment of compensation shall be recovered by OWCP unless incorrect payment has been made to an individual who is without fault and when adjustment or recovery would defeat the purpose of FECA or would be against equity and good conscience.²⁰ Section 10.438 of OWCP's regulations provides that the individual who received the overpayment is responsible for providing information about income, expenses and assets as specified by OWCP. This information is needed to determine whether or not recovery on an overpayment would defeat the purpose of FECA or be against equity and good conscience. Failure to submit the requested information within 30 days of the request shall result in denial of waiver.²¹

The guidelines for determining whether recovery of an overpayment would defeat the purpose of FECA or would be against equity and good conscience are set forth in sections 10.434 to 10.437 of OWCP's regulations.²²

Section 10.436 provides that recovery of an overpayment would defeat the purpose of FECA if recovery would cause hardship because the beneficiary needs substantially all of his or her current income (including compensation benefits) to meet current ordinary and necessary living expenses and, also, if the beneficiary's assets do not exceed a specified amount as determined by OWCP from data provided by the Bureau of Labor Statistics.²³ For waiver under the defeat the purpose of FECA standard, appellant must show that he or she needs substantially all of his or her current income to meet current ordinary and necessary living expenses, and that assets do not exceed the resource base.²⁴ An individual is deemed to need substantially all of his or her current income to meet current ordinary and necessary living expenses if monthly income does not exceed monthly expenses by more than \$50.00.²⁵

¹⁹ See *M.H.*, Docket No. 19-1497 (issued September 9, 2020); *M.B.*, Docket No. 18-1101 (issued January 17, 2019).

²⁰ 5 U.S.C. § 8129.

²¹ 20 C.F.R. § 10.438.

²² *Id.* at §§ 10.434-10.437.

²³ *Id.* at. § 10.436.

²⁴ *Id.*

²⁵ Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Final Overpayment Determinations*, Chapter 6.400.4a(3) (September 2018).

OWCP's procedures provide that the assets must not exceed a resource base of \$6,200.00 for an individual or \$10,300.00 for an individual with a spouse or dependent plus \$1,200.00 for each additional dependent.²⁶ An individual's liquid assets include but are not limited to cash, the value of stocks, bonds, saving accounts, mutual funds and certificate of deposits. Nonliquid assets include but are not limited to the fair market value of an owner's equity in property such as a camper, boat, second home, and furnishings/supplies.²⁷

Recovery of an overpayment is considered to be against equity and good conscience when an individual who received an overpayment would experience severe financial hardship in attempting to repay the debt or when an individual, in reliance on such payment or on notice that such payments would be made, gives up a valuable right or changes his or her position for the worse.²⁸

OWCP regulations provide that the individual who received the overpayment is responsible for providing information about income, expenses, and assets as specified by OWCP. This information is needed to determine whether or not recovery of an overpayment would defeat the purpose of FECA or be against equity and good conscience. The information is also used to determine the repayment schedule, if necessary.²⁹

ANALYSIS -- ISSUE 3

The Board finds that the issue of waiver of recovery with regard to the overpayment regarding OWCP's failure to deduct PRBLI premiums is not in posture for decision as the case is remanded for the determination of the amount of the overpayment.

The Board further finds that OWCP properly denied waiver of recovery of the \$21,363.55 overpayment with regard to his SSA age-related retirement benefits.

At the January 28, 2019 hearing, appellant testified that he was not claiming financial hardship because he could repay the overpayment. Rather, he maintained that he would not have begun SSA benefits if he had known of the offset and thus, he detrimentally relied on these SSA age-related retirement benefits and purchased a more expensive vehicle than he otherwise would have following an MVA.

To establish that a valuable right has been relinquished, it must be shown that the right was in fact valuable, that it cannot be regained, and that the action was based chiefly or solely in reliance on the payments or on the notice of payment.³⁰ The arguments that appellant would not

²⁶ *Id.* at Chapter 6.400.4a(2).

²⁷ *Id.*

²⁸ 20 C.F.R. § 10.437(a)(b).

²⁹ *Id.* at § 10.438(a).

³⁰ *See P.B.*, Docket No. 20-0862 (issued November 25, 2020); *L.B.*, Docket No. 12-1202 (issued February 6, 2013).

elected SSA benefits or have purchased a specific vehicle are insufficient to establish that a valuable right has been relinquished.³¹

The Board finds the evidence of record does not establish that recovery of the overpayment would defeat the purpose of FECA, or be against equity and good conscience. Therefore, OWCP properly denied waiver of recovery of the \$21,363.55 overpayment.³²

LEGAL PRECEDENT -- ISSUE 4

The Board's jurisdiction over recovery of an overpayment is limited to reviewing those cases where OWCP seeks recovery from continuing compensation under FECA.³³

Section 10.441 of OWCP's regulations provides in pertinent part: "When an overpayment has been made to an individual who is entitled to further payments, the individual shall refund to OWCP the amount of the overpayment as the error is discovered or his or her attention is called to the same. If no refund is made, OWCP shall decrease later payments of compensation, taking into account the probable extent of future payments, the rate of compensation, the financial circumstances of the individual, and any other relevant factors, so as to minimize any hardship."³⁴

ANALYSIS -- ISSUE 4

The Board finds that the case is not in posture for decision as to whether OWCP properly required recovery of both overpayments by deducting \$500.00 every 28 days from appellant's continuing compensation.

By decision dated March 25, 2019, OWCP's hearing representative finalized both the August 8 and October 29, 2018 preliminary overpayment determinations and required one rate of recovery for both overpayments by ordering that \$500.00 be deducted from appellant's continuing compensation every 28 days. However, in light of the Board's disposition of Issue 1, the issue of recovery of both overpayments is not in posture for decision. On remand OWCP shall determine the rate of recovery for each overpayment and following any further development as deemed necessary, issue a *de novo* decision.

CONCLUSION

The Board finds that OWCP properly determined that appellant received an overpayment of compensation for the period March 7, 2015 to January 7, 2017 with regard to OWCP's failure to deduct PRBLI premiums from appellant's wage-loss compensation; however, the case is not in posture for decision regarding the amount of this overpayment. The Board further finds that OWCP properly determined that appellant received an overpayment of compensation in the

³¹ See *H.F.*, Docket No. 17-0101 (issued September 5, 2017).

³² *Id.*

³³ 20 C.F.R. § 10.441; see *C.B.*, Docket No. 20-0031 (issued July 27, 2020).

³⁴ *Id.*

amount of \$21,363.55, for which he was not at fault, as he received FECA wage-loss compensation benefits and SSA age-related retirement benefits for the period July 1, 2016 to June 23, 2018 without an appropriate offset. The Board also finds that the case is not in posture for decision with regard to waiver of recovery of the PRBLI overpayment and that OWCP properly denied waiver of recovery of the overpayment with respect to the SSA overpayment. Additionally, the Board finds that the case is not in posture for decision with regard to the rate of recovery for both overpayments.

ORDER

IT IS HEREBY ORDERED THAT the March 25, 2019 decision of the Office of Workers' Compensation Programs is affirmed in part and set aside in the part, and the case is remanded to OWCP for proceedings consistent with this decision of the Board.

Issued: April 2, 2021
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board